

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3579 of 1986

Date of decision: 10-2-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMBHAROSE SHIVNATH PANDE

Versus

RAJESH TEXTILES

Appearance:

None present for Petitioner

Mr. Y. S. Vyas for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/02/98

ORAL JUDGEMENT

The matter was called out for hearing in the first round, second round and lastly in the third round. But no one put appearance on behalf of the petitioner.

Challenge has been made by the petitioner in this special civil application to the order of the Labour Court, Surat dated 5-11-1985 passed in Recovery Application No.1246/81. The petitioner filed application under section 33-C(2) of the Industrial Disputes Act, 1947 against the respondents for recovery of the amount of Rs.13,800/-. This application was allowed by the Labour Court and the claim of the petitioner for Rs.13,800/- was granted vide order dated 23rd November, 1983. The respondents moved application praying that the order which was passed ex parte be set aside and the matter be decided on merits after hearing the respondents. That application has been allowed. Hence this special civil application.

2. The Labour Court, after considering all the aspects of the matter and by passing reasoned and detailed order considered it to be a fit case where the other side, i.e. the respondent herein, has to be given an opportunity of hearing. So the ex parte order has been set aside and the matter has been fixed for deciding the same on merits. I do not find any illegality in the order which calls for interference of this court sitting under Article 227 of the Constitution of India. Writ petition under Article 226 / 227 of the Constitution of India is not as a matter of course or right. This court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. Powers of this Court under Article 227 of the Constitution of India must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes. Here is a case where the petitioner has filed application under section 33-C(2) of the I.D. Act regarding his claim for arrears of salary. Though order was passed in his favour it was an ex parte order. Taking into consideration the facts of the case, in case the Labour Court has considered the present matter to be a fit case where the respondents should be given opportunity to contest the claim of the petitioner, it will not result in any grave injustice to the petitioner. The Labour Court has passed just and reasonable order and, with clear object that as far as possible the matter should be decided on merits, set aside the said ex parte order. Taking into consideration the totality of the facts of the case I do not find any

reason to interfere with the order of the Labour Court,
sitting under Article 227 of the Constitution of India.

3. In the result the special civil application fails
and the same is dismissed. Rule discharged. Interim
relief granted earlier stands vacated.

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